

रजिस्टरेशन नं ० एत०-३३/एस० एम०/१३-१४/९५।



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

ग्रन्थालय, 12 मित्रस्थान, 1994/21 भागद, 1916

हिमाचल प्रदेश तरकार

हिमाचल प्रदेश विधान सभा अवधानन्य

प्रधानमंत्री

ग्रन्थालय, 12 मित्रस्थान, 1994

मुद्रा 1-50/94-वि०००.—हिमाचल प्रदेश विधान सभा को प्रक्रिया पां और संचालन नियमों को, 1973 के नियम 135 के अन्वेषण "फाचल प्रदेश विधान बस्तुओं पर कर (होटों और इन्होंना

गृहों में) संशोधन विधेयक, 1994 (1994 का विधेयक संख्यांक 13) जो दिनांक 12 जितम्बर, 1994 को हिमाचल प्रदेश विधान सभा में पूर्ण स्थापित हो गया है, सर्वमाधारण की सूचनाएं राजपत्र में मुद्रित करने हेतु प्रेषित किया जाता है।

लक्षण सिंह,
सचिव।

1994 का विधेयक संख्या 13

हिमाचल प्रदेश विज्ञान वस्तुओं पर कर (होटलों और शिक्षाया गृहों में)
संशोधन विवेक, 1994

(विद्यालय सभा में यथा पुरस्कारित रूप में)

हिमाचल प्रदेश टैक्स आन लकड़ीज (इन होटलज एण्ड लौजिंग हाउसेज) एक्ट, 1979 (1979 का 15) का ग्रीन संशोधन करने के लिए विधेयक।

भारत गणराज्य के पैतृलीलिय वर्ष में हिमाचल प्रदेश विद्यालय सभा द्वारा निम्नलिखित रूप में यह अधिनियम हो :—

1. (1) इस अधिनियम का संवित्त नाम हिमाचल प्रदेश विज्ञान वस्तुओं पर कर (होटलों और शिक्षाया गृहों में) संशोधन अधिनियम, 1994 है। संवित्त नाम और प्रारम्भ।

(2) इस अधिनियम की धारा 4, 5 और 6 तुरन्त प्रवृत्त होती और ये उपर्युक्त प्रधान अधिनियम, 1993 के बहुत ही बनाए जाएं।

2. हिमाचल प्रदेश टैक्स आन लकड़ीज (इन होटलज एण्ड लौजिंग हाउसेज) एक्ट, 1979 (जिसे इसमें इनके पश्चात् नून अधिनियम कहा गया है) की धारा 2 में, खण्ड (e) के पश्चात् निम्नलिखित छण्ड (ee) जोड़ा जायगा, अर्थात् :—

"(ee) "new hotel" means a hotel, located within the State of Himachal Pradesh, which commences operation on or after 1st day of August, 1993, and shall also include an existing hotel, the proprietor of which after the 1st day of August, 1993—

- (i) expands, alongwith facilities and services already being provided therein, its existing accommodation by atleast twenty-five per cent with an additional capital investment of not less than twenty-five per cent of the existing capital investment but without change in the nature of the facilities and services, or
- (ii) diversifies it by providing new facilities and services with an additional capital investment of not less than twenty-five per cent of the existing capital investment,

but does not include any hotel which is formed as a result of re-establishment, mere change of ownership, change in the constitution, re-construction or revival of an existing hotel.

Explanation.—For the purposes of this clause "capital investment" means investment made on land, building, machinery and plant by the proprietor of the hotel."

3. नून अधिनियम की धारा 6 के पश्चात् निम्नलिखित धारा 6-A और 6-B अन्तःस्थापित की जाएंगी, अर्थात् :—

धारा 6-A
और धारा 6-B का
अन्तःस्थापि-
तन।

"6-A. Special provisions relating to deferred payment of luxury tax by proprietors of new hotels.—(1) Notwithstanding anything contained in any

other provisions of this Act, if the Government is of the opinion that with a view to provide incentives to the proprietors setting up new hotels in the State, it is necessary or expedient in the public interest so to do, it may, under a scheme notified in this behalf under this Act, and subject to such restrictions and conditions as may be specified in such scheme, provide for deferred payment of luxury tax payable under section 4 by such proprietor who is registered under this Act :

Provided that the State Government may, for the purposes of this sub-section, make a scheme retrospectively with effect from the 1st day of August, 1993.

(2) Subject to the provisions of sub-section (1), the proprietor referred to therein, if eligible for grant of facility of making deferred payment of luxury tax under the scheme notified under sub-section (1), may make deferred payment of luxury tax payable by him.

6-B. Power to exempt the proprietors of new hotels from payment of luxury tax.—(1) Notwithstanding anything contained in any other provisions of this Act, if the Government is of the opinion that with a view to provide incentives to the proprietors setting up new hotels in the State, for providing luxury therein, it is necessary or expedient in the public interest so to do, it may, by notification, exempt the proprietor of a new hotel from the payment of luxury tax, for such period, not exceeding five years, as may be specified in the said notification, subject to the condition that—

(i) such new hotel comes into operation between the period commencing from the 1st day of August, 1993 and ending on the 31st day of July, 1998, and

(ii) the rates of charges for the luxury provided in such new hotel do not exceed one hundred rupees per person per day.

(2) The Government may, for the purposes of sub-section (1), issue notification retrospectively with effect from the 1st day of August, 1993 in respect of the new hotels coming into operation between the 1st day of August, 1993 and the commencement of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Act, 1994.

(3) Notwithstanding anything contained in sub-section (6) of section 4, no proprietor of a new hotel, in respect of which a notification under sub-section (1) has been issued, shall, during the period when such exemption remains in force, collect any sum by way of luxury tax to the extent of exemption provided in the notification.

(4) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before the State Legislature.”

४. मूल अधिनियम की धारा ४ में—

(i) अंक और चिन्ह “8.” के पश्चात और शब्द “Any” से पूर्व कोष्ठा और अंक “(1)” अंतः स्थापित किए जाएंगे;

(i) अन्धा (i) में—

(३) प्रथम परम्परा में एवं "tax assessed" के पश्चात् पाठ
अवृ "and the penalty" व पृष्ठ, खोला द्वारा देव "(including
interest payable)" अतःस्वाप्ति विषय जाएगी ; और

(४) द्वितीय परम्परा में एवं "without the tax" के
पश्चात् परम्परा एवं "or penalty" व पृष्ठ, खोला द्वारा देव
"(including interest payable)" अतःस्वाप्ति विषय जाएगी ।

5. सूत्र अविनियन की धारा 10 में "or an application for revision
made under section 9" एवंदो अंत देव एवं लिख दिया जाएगा ।

धारा 10
का संशोधन ।

6. छठके शीर्ष : अन्त दूसरे अविनियन की धारा 11 के अन्त पर निम्नानुचित
धारा प्रतिक्रियाप्रति कीजायगी, अपेक्षा :—

धारा 11
का प्रति-
नियन ।

"11. Tax, penalty and interest recoverable as arrears of land revenue.—The
amount of luxury tax and penalty imposed or interest payable
under this Act, which remain unpaid after the due date shall be
recoverable as arrears of land revenue.".

उद्देश्यों और कारणों का कथन

हिमाचल प्रदेश विनाय बन्धुओं पर वा (होटलों और विद्यालयों में) अधिनियम, 1979 (1979 का 15), होटल और विद्यालय गृह के प्रदेश: नियमारों ने होटल गौर विनाय गृह में विनाय बन्धु की व्यवस्था बनाने का वापर विनाय कर सकते करने की प्राप्ति करता है। हिमाचल प्रदेश ५० पर्वत राज्य है। राज्य में पर्वत को प्राप्ति हित करने और होटल उद्योग को विभिन्न विनाय गृहों के उद्योग प्रबन्धन, 1993 को या इसके दूसरा संचालित नए होटलों के स्वतंत्रतारियों द्वारा संदेश दी जाने वाली विनाय बन्धु कर की रियो के संदर्भ की बारह वर्षों तक प्राप्ति करने की स्कीम वा उपवन्धु बनाने वा विनियोग दिया गया है और प्राप्ति गृहों का नए होटलों के उन स्पत्यारियों को विनाय बन्धु वर्ष के संदर्भ में ५ वर्ष के लिए छूट देने वा विनाय दी गयी है। जिनके होटल प्रबन्धन प्रबन्धन, 1993 से प्राप्ति होने वाली और 31 जून 1998 को समाप्त होने वाली व्यवधार के बांध संयोजित हों और जो प्रति व्यक्ति प्रतिदिन ए-सौ रुपए तक अनधिक दरों और प्रभारों पर विनाय बन्धु की व्यवस्था करते हों।

2. इन प्रयोजनों के लिए पद "नए होटल" को परिभाषित करना आवश्यक है। कूटिं विनाय बन्धु कर के संदर्भ को बारह वर्षों तक आस्थानि गृहों द्वारा नए होटलों के स्वतंत्रतारियों को पांच वर्ष के लिए छूट देने के प्रोतोहोरों को कठश: विनाय बन्धु वर्ष के प्राप्ति संदर्भ की स्कीम और अधिसूचना द्वारा विनाय बन्धु दर के संदर्भ में छूट द्वारा विनायित दिया जाना प्राप्ति है। इन्हें मूर अधिनियम में इन वाचा परिवर्ति डिजिट गृहों विनाय है ताकि राज्य सरकार स्कीम को बनाकर अधिसूचित कर रके और छूट की दावत क्षमित्वाना जारी कर सके।

3. वांछि: इन प्रोतोहोरों को प्रबन्धन प्रबन्धन, 1993 ने दिया जाने वा विनियोग दिया गया है इसीलिए यह प्रधिनियम में दूजे पर वर्षों विनाय बन्धु वर्ष के आस्थानि संदर्भ के लिए स्कीम की बाबत अधिसूचित गृहों विनाय बन्धु वर्ष के लिए उपयुक्त उपर्युक्त गृहों व्यवस्था है। वर्ष के विनायित संदर्भ पर व्याज के उद्घातण के उपर्योग के पुरुष स्वाधीन और बाबतेन पर पुनरीक्षण के लोप के विनायामस्वाक्षर अधीन, पुनरीक्षण और भू-राजस्व की विधाया के द्वारा में व्याज को वस्त्री की बाबत उपर्योग में सुधार करना आवश्यक है।

4. यह विवेयक उपर्युक्त उद्देश्यों की पूर्ण की जिए है।

सत्त राज
प्रभारी मन्त्री ।

शिक्षनी:
12 जितम्बर, 1994.

वित्तीय ज्ञापन

इप्रियेयक दा खण्ड-3 नए होटलों के न्यूत्वधारियों द्वारा विताम गर के लिए आम्बरगित संदर्भ परा उपचन्ध करता है। यथापि कर के आम्बरगित संदर्भ द्वारा शिर्फ विलम्बित संदाय होता, परन्तु विताम गर की अन्ततः कोई हानि नहीं होती, तथापि इन संदायों पर व्याज के कारण कुछ हानि उत्पन्न होती, जिसका महीने से अनुसान नहीं नगाया जा सकता।

विदेयक का खण्ड 3 भी विताम गर से, नए होटलों में प्रति व्यक्ति प्रति दिन 100/- रुपए की विताम व्यवस्था के लिए छूट प्रदान करता है। इस छूट के परिणामस्वरूप यात्रा के उत्तरायण का जगमग एक लोडपूर्चाम लाभ रुपए का वापिस पाठा होता।

प्रत्यायोजित रिटार्न सम्बन्धी ज्ञापन

विदेयक का खण्ड 3 अब सरलाई को विताम गर के आम्बरगित संदाय के लिए न्यूत्वधारियों विताम वनाने और भूत-लक्षी प्रशाव से प्रब्रह्म अगस्त 1993 से दिनान बन्तुओं पर छूट देने की अधिकृतता गार्हा बनाने के लिए सज्जन करता है। क्योंकि मूल अधिनियम के उपबन्ध नए होटलों के बारे में प्रब्रह्म अगस्त, 1993 ने नियमित किए जा रहे हैं, इसलिए राज्य नरेश के विदेयक का खण्ड 3 के अधीन भूतनक्षी प्रशाव से लक्षित विताम जितियों ता प्रत्यायोजन आवश्यक है। इन विताम जितियों द्वा प्रत्यायोजन प्रावधान कीर गामान्ध प्रकृति वा है।

संविधान के अनुच्छेद 207 के अधीन राज्यपाल की सिफारिश

[नस्ति संख्या ई० एक०० एन० एक० (21) 4/87-(तूज)-ग्रावकारी एवं रकाशान विताम]

हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश विताम वस्तुओं पर कर (होटलों और लिराया गृहों में) संबोधन विध्यक, 1994 की विध्यक वस्तु के बारे में सूचित लिए जाने के प्रब्रह्म भारत के संविधान के अनुच्छेद 207 के अधीन उत्त विधेयक को विताम ज्ञान में पुरुष्याधिन दर्जे और उस पर विचार करने वाले सिफारिश करत है।

Bill No 13 of 1994.

THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND LODGING HOUSES) AMENDMENT BILL, 1994

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (Act No. 15 of 1979).

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Act, 1994.

Short title
and com-
mencement.

(2) Sections 4, 5 and 6 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of August, 1993.

Amend-
ment of
section 2

2. In section 2 of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (hereinafter referred to as the principal Act), after clause (ee), the following clause (ee) shall be added, namely:—

“(ee) “new hotel” means a hotel located within the State of Himachal Pradesh, which commences operation on or after 1st day of August, 1993, and shall also include an existing hotel, the proprietor of which after the 1st day of August, 1993—

(i) expands, alongwith facilities and services already being provided therein, its existing accommodation by atleast twenty-five per cent with an additional capital investment of not less than twenty-five per cent of the existing capital investment but without change in the nature of the facilities and services, or

(ii) diversifies it by providing new facilities and services with an additional capital investment of not less than twenty-five per cent of the existing capital investment.

but does not include any hotel which is formed as a result of re-establishment, mere change of ownership, change in the constitution, reconstruction or revival of an existing hotel.

Explanation.—For the purposes of this clause “capital investment” means investment made on land, building, machinery and plant by the proprietor of the hotel;—

3. After section 6 of the principal Act, the following sections 6-A and 6-B shall be inserted, namely:—

“6-A. Special provisions relating to deferred payment of luxury tax by proprietors of new hotels.—(1) Notwithstanding anything contained in any

Insertion
of sections
6-A and
6-B.

other provisions of this Act, if the Government is of the opinion that with a view to provide incentives to the proprietors setting up new hotels in the State, it is necessary or expedient in the public interest so to do, it may, under a scheme notified in this behalf under this Act, and subject to such restrictions and conditions as may be specified in such scheme, provide for deferred payment of luxury tax payable under section 4 by such proprietor who is registered under this Act:

Provided that the State Government may, for the purposes of this sub-section, make a scheme retrospectively with effect from the 1st day of August, 1993.

(2) Subject to the provisions of sub-section (1), the proprietor referred to therein, if eligible for grant of facility of making deferred payment of luxury tax under the scheme notified under sub-section (1), may make deferred payment of luxury tax payable by him.

6-B. Power to exempt the proprietors of new hotels from payment of luxury tax.—(1) Notwithstanding anything contained in any other provisions of this Act, if the Government is of the opinion that with a view to provide incentives to the proprietors setting up new hotels in the State, for providing luxury therein, it is necessary or expedient in the public interest so to do, it may, by notification, exempt the proprietor of a new hotel from the payment of luxury tax, for such period, not exceeding five years, as may be specified in the said notification, subject to the condition that—

- (i) such new hotel comes into operation between the period commencing from the 1st day of August, 1993 and ending on the 31st day of July, 1998, and
- (ii) the rates of charges for the luxury provided in such new hotel do not exceed one hundred rupees per person per day.

(2) The Government may, for the purposes of sub-section (1), issue notification retrospectively with effect from the 1st day of August, 1993 in respect of the new hotels coming into operation between the 1st day of August, 1993 and the commencement of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Act, 1994.

(3) Notwithstanding anything contained in sub-section (6) of section 4, no proprietor of a new hotel, in respect of which a notification under sub-section (1) has been issued, shall, during the period when such exemption remains in force, collect any sum by way of luxury tax to the extent of exemption provided in the notification.

(4) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before the State Legislature.”.

4. In section 8 of the principal Act,—

- (i) after the figure and sign “8.”, and before the word “Any”, the brackets and figure “(1)”, shall be inserted;
- (ii) in sub-section (1)—
- (a) in the first proviso after the words “tax assessed” but before the words “and the penalty”, the brackets and words

"(including interest payable)" shall be inserted; and
 (b) in the second proviso, after the words "without the tax" but before the words "or penalty", the brackets and words "(including interest payable)" shall be inserted.

5. In section 10 of the principal Act, the words and figure "or an application for revision made under section 9" shall be omitted.

6. For section 11 of the principal Act, alongwith its heading, the following shall be substituted, namely: -

"11. Tax, penalty and interest recoverable as arrears of land revenue.—The amount of luxury tax and penalty imposed or interest payable under this Act, which remains unpaid after the due date shall be recoverable as arrears of land revenue.".

Amend-
ment of
section 10.

Substitu-
tion of sec-
tion 11.

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (Act No. 15 of 1979) requires every proprietor of a hotel or a lodging house to pay luxury tax in respect of the 'luxury provided in his hotel' or lodging house. The Himachal Pradesh is a tourism State. With the objective of encouraging tourism and also promoting hotel-industry in the State, it has been decided to provide for a scheme of deferred payment, upto twelve years, of the amount of luxury tax payable by the proprietors of 'new hotels' coming into operation on or after the 1st day of August, 1993, and it has also been decided to exempt, by notification, for five years those proprietors of 'new hotels' from the payment of luxury tax whose hotels come into operation between the period commencing from the 1st day of August, 1993 and ending on the 31st day of July, 1998 and who provide luxury at the rates and the charges not exceeding rupees one hundred per person per day.

2. For these purposes, it is essential to define the expression 'new hotel'. As the incentives of deferred payment of luxury-tax upto 12 years and exemption for five years to the proprietors of new hotels are intended to be implemented respectively by means of a scheme of deferred payment of luxury tax and notification exempting payment of luxury tax, it is also imperative to make adequate provisions in this regard, in the principal Act, to enable the State Government to make and notify the scheme and also to issue or empower notification.

3. Since it has been decided to make available these incentives with effect from the 1st day of August, 1993, it is also essential to make suitable provision in the principal Act, empowering the State Government to make and unify the scheme of deferred payment of luxury tax and to notify the exemption of luxury tax retrospectively with effect from the 1st day of August, 1993 itself. Further, as a consequence of introduction of provisions of levy of interest on belated payment of tax and omission of revision on application, it is also essential to improve the provisions relating to appeal, revision and recovery of interest as arrears of land revenue.

4. The Bill seeks to achieve the aforesaid objectives.

SANT RAM,
Minister-in-charge.



SHIMLA :
The 12th September, 1994.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to provide for deferred payment of luxury tax by proprietors of new hotels. Although by deferred payment of the tax there will be only delayed payment but no ultimate loss of luxury tax, yet on such payments there will occur some loss on account of interest the amount whereof cannot be exactly quantified.

Clause 3 of the Bill also seeks to exempt the luxury provided in a new hotel upto one-hundred rupees per person per day from luxury-tax. As a result of this exemption, there will occur annual loss of rupees one crore fifty lakh approximately to the State exchequer.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the State Government to make the Scheme for deferred payment of luxury tax and to issue notification exempting luxury tax retrospectively with effect from the 1st day of August, 1993. Since the provisions of the principal Act in regard to the new hotels, are being amended with effect from the 1st day of August, 1993, it is necessary to delegate the powers to the State Government to make the Scheme retrospectively under clause 3 of the Bill. These delegations of legislative powers are essential and normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[File No. EXN-F (21)-4/87 Excise and Taxation Department]

The Governor of Himachal Pradesh, after having been informed of the subject matter of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Bill, 1994, recommends under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.